



# EXPOSITION

OF THE

*Madhe Sahaba—Tabarra Question*

## MANIFESTO

ISSUED BY

THE WORKING COMMITTEE

OF THE

ANTI TABARRA ASSOCIATION

LUCKNOW

1939



It is a matter of the deepest concern to the Muslims at large that the relations between the Shias and Sunnis of Lucknow should have been embittered by the Taberra agitation to a degree which is unprecedented in the history of this country. Muslims who view the problem from a distance and who have not acquainted themselves with the entire history of the Shia and Sunni controversy are quite naturally handicapped in appreciating the real issues involved and what gave rise to them. Many of them light-heartedly express opinions which hardly do justice to the really aggrieved party. It is, therefore, desirable to issue a statement which should be based, not on assertions made in a partisan spirit, but, on facts established by official records, to enable those interested in the solution of this grave problem to judge the salient features of it in their proper perspective.

The earliest incident which disturbed the harmonious relations between the Shias and Sunnis of Lucknow arose out of the form of *azan* (call to prayers). In the eighties, the Shia Muazzins introduced into the customary *azan* a reference to Hazrat Ali with the phrase *Khalifatahu bila fasl* which literally means 'his *i. e.* the Prophet's immediate successor' and implies repudiation of the right of succession of the first three Khalifas, and this was objected to by the Sunnis. The matter came before the courts in 1888 and though a copy of their decision is not available, it appears from the report of the Piggot Committee which sat in 1908, that it was adverse to the Sunnis. No apparent dissension leading to mass conflict however occurred till 1905 when there was an open rupture between the Shias and Sunnis on the separation of Shia and Sunni Karbalas. It is a matter of common knowledge that Moharram celebrations in Lucknow used to be at a scale unknown anywhere in India. The Sunnis, mostly of the uneducated classes, participated in those celebrations with a devotion equalled only by that of the Shias. The overwhelming majority of the Shias and Sunnis used to bury their *Tazias* at a place known as

Tal Katora. The entire neighbourhood of the Karbala used to present, on the Ashra day, and, to a lesser degree on the occasion of Chehallum, the appearance of a big fair. The open spaces by the road side and in the neighbourhood of Karbala were occupied by shops, booths, swings and the like. The *Tazia* processions were accompanied by Alams, Taboots, music appropriate to the occasion of mourning, display of fencing and other manly games. Other practices of a more objectionable character had also sprung up and had been in vogue for many years. Karbala, being a place of public resort, also attracted not a few city women and their presence quite naturally led to evils which every decent society should forbid. Some time before 1905, an organisation known as the Imamia association had come into existence and received some sort of official recognition. It made a number of regulations which, though prompted by good intentions, laid down too drastic rules in certain respects. If the association had begun by discouraging practices of an obviously objectionable character and gradually introduced reforms in other respects the unhappy controversy which was unfortunately heralded by its activities might have been avoided. The regulations, however, introduced violent changes in matters which had gained popular approval by long usage. Among other things they strictly prohibited all games or achrobatic exercises such as displays of fencing or the like with the *Tazia* processions; no shops other than those for the supply of customary refreshments could be opened except with the permission of the Imamia association; smoking or chewing beetle within the Karbala compound was strictly prohibited; no laughing in jest or otherwise derogatory to the sanctity of the occasion was permissible. Those guilty of any contravention of the rules were liable to be ejected from the Karbala.

It is notorious how regulations of this kind and their interpretations find currency. Few people who are able to read and write cared to acquaint themselves with the precise rules. The illiterate masses were, of course, not in a position to do this

even if they desired. An impression was created abroad that the Imamia association had been given extensive powers to regulate the conduct of those proceeding to the Karbala and to control the assemblage in its neighbourhood. It was believed that those visiting the Karbala should be bare-headed and bare-footed like the Shias. On the face of them the rules insisted on some Shia observances and were taken to be of anti-Sunni character. This led to acute bitterness between the two sects. The Sunnis decided to have a separate Karbala of their own and founded one at another place naming it Phool Katora. It is difficult to form an idea at this distant date of the depth of feeling aroused by that controversy. A sharp cleavage between the Shia Tazias and Sunni Tazias become too prominent a feature of Moharram celebrations. Sunnis attempted to impart to their observances characteristics symbolical of their faith. They resorted to the practice of inscribing the names of the four Caliphs on the four corners of their Tazias, substituted Jhandas for Alams and with the *marsias* (dirges) they also recited poems in honour of the four Caliphs. Some of these verses contained not only praises of the four Caliphs but invoked imprecations on those who did not believe in all the four of them. Moharram celebrations in Lucknow were for several years marred by bitterness, followed by breaches of the peace and prosecutions in criminal courts.

The Shia aristocracy of Lucknow approached the then Government with a memorial praying for its intervention. Accordingly Sir John Hewett constituted a committee which is now known as the Piggot Committee, composed of Mr. Piggot the then Judicial Commissioner of Lucknow as president, two Hindu members, B. Ganga Prasad Verma and Rai Sri Ram Bahadur, two Shia members, Syed Shahinshah Husain Vakil and Maulana Nasir Husain Sahib Mujtahid and two Sunni members, Syed Nabiullah and Maulana Abdul Shakoor Saheb. Syed Nabiullah could not attend any but the first sitting of the committee. After numerous and prolonged sittings it submitted a report which was unanimous in some respects but as regards others the Shia members added dissentient notes and Maulana Abdul

Shakoor the only remaining Sunni member similarly recorded a note of dissent. The president and the two Hindu members were unanimous on all points. The report of the majority forms an important landmark in the history of this unfortunate controversy and has been accepted by all successive Governments as a correct exposition of the rights of the parties. We shall, therefore, give the findings of the committee in its own words wherever it is necessary to refer to them.

The committee were called upon to investigate and to record findings on various claims put forward by one side or the other. Having discussed the various aspects of the controversy the committee recorded its findings on certain specific matters which were directly in question and are of considerable importance even to-day. They expressed themselves as follows :—

“We now come to the critical question of the addition which it may be desirable to make to the existing rulers in order to meet the wishes of the Shia memorialists.

We are all agreed that tazias or flags bearing inscriptions should be prohibited.

As regards flags generally, we are agreed that the only banner or standard which can with any propriety be carried in procession along with the tazias, or as part of the “Jalus” (state) “pomp” or “display”, in connection with the Moharram processions is the traditional alam which represents the banner carried by Hazrat Abbas, the standard bearer of Hazrat Husain on the field of Karbala. Any other description of standard could have no place or meaning in the procession, and if carried avowedly in honour of any person other than Husain Allaiheessalam could only be considered as intentionally offensive to the feelings of persons engaged in commemorating the death of that hero. We have found it a little difficult to suggest the precise kind of regulation required; and there has been some argument before us as to whether members of the Sunni faith either actually do or with due regard to their re-

ligious belief can carry an "Alam". It seems to us at any rate that it would be unreasonable to prevent them from doing so if they wish. We think that the difficulty as regards this part of the business would be adequately met by a regulation forbidding in general terms the carrying, in connection with the Moharram procession, of any flag, standard or banner not confirming to the general shape and appearance of the traditional "Alam" or avowedly carried in the honour of any person other than Husain.

We are agreed that the singing or recitation of such verses as the imprecatory verses which were quoted in paragraph 17 of this report should be sternly suppressed; but the matter seems to us adequately dealt with by the 6 rule in the "Chehlum" notice of 1908.

Up to this point, and subject only to such divergencies of view as have been sufficiently indicated in the course of this report we have been glad to find ourselves in substantial agreement. There remains for discussion one point as to which unanimity was scarcely to be hoped, and has not been in fact attained. It is no doubt the kernel of the whole matter; but we may perhaps claim that our labours have not been entirely in vain if they have served to elucidate the facts and to narrow down the issue to its smallest possible dimensions. The question is what regulations, if any, should be applied to the public singing or recitation of verses in honour of four Caliphs, even where they imply no expression of contempt or insult towards those who are unable to concur in them. We may hope at any rate to put forward in clear relief the opinions of the contending parties. Our Shia members would desire to see a regulation drawn up in general terms prohibiting the recitation in public of any verses or formulas asserting or implying the praises of any persons whose praises are regarded as offensive by the followers of another sect; they would like to see this prohibition applied to the tazia procession generally and to all public places or public assemblies, and further extended over the entire period of some two and a half months during which



the Shias conduct their Moharram celebrations. They justify the proposed prohibition on the ground that the praises of the first 3 Caliphs are at all times highly offensive to them, that they are peculiarly out of place in connection with the Moharram celebration in honour of Husain, and that their permission on any terms during Moharram period will only be made a handle for provocation and the stirring up of strife.

On the opposite side the case for the Sunnis has been set before us with equal dignity and clearness by Mr. M. Abdul Shakur, as well as by a number of witnesses thoroughly representatives of the feelings of their coreligionists, and in the able argument addressed to us by the learned barrister who conducted their case. They repudiate in general terms the contention that the praises of the 3 Caliphs should be considered as offensive to Shia feelings in such a fashion as to call for general prohibition; they represent strongly the danger of rousing fanatical excitement amongst Sunnis of lower orders by prohibiting them from praising in public the heroes of their faith and they represent that, as a matter of faith and duty, a devout Sunni should consider himself bound on the Ashra day to celebrate the praises of God, the Prophet, and the immediate successors of the Prophet, before proceeding to celebrate the death of Husain.

A few words may be said in the first place with reference to this last argument. It is not difficult for any skilful lawyer to put a Sunni gentleman dialectionally in the wrong when cross examining him as to the participation of his coreligionists in the Moharram festival. We scarcely need the evidence which has been produced before us in order to understand that many, perhaps most, Sunnis of position hold themselves aloof from the processions, and we may venture to say that it is a matter of common knowledge that these have been condemned altogether by some prominent Sunni writers. The extent to which some fanatical Shias are prepared to push their arguments on this point was well illustrated by a most venomous article in a Shia

notice in the course of our enquiry. The gist of this article is in fact that Shias and Sunnis can never unite heartily in the joint celebration of the Moharram, because although both are celebrating the same event the former are lamenting the defeat and death of Husain, while the latter are rejoicing over the triumph of his enemies. The falsehood thus set forth is not calculated to deceive any one, and is referred to here only as the sign of the extent to which the spirit of antagonism between the two parties has been stirred up. The actual position of the Sunnis with reference to the death of Husain is widely different. We have had before us a Sunni booklet in which the whole pathetic story of Husain's expedition and of his death is set forth in terms which any Shia enthusiast might be glad to endorse, and the character and the conduct of the hero are praised in the most enthusiasti<sup>c</sup> terms. The Sunnis generally accept Husain as the hero of that faith which they hold in common with their Shia bretheren, and those who join in the Tazia celebrations on the Ashra day do so in honour of the hero and not otherwise. Nevertheless the contention on the point of religious duty which has been laid before us on behalf of the Sunnis is not one which, even if accepted, will cover their recent conduct. We put it to one of the most authoritative of their witnesses:—

“What would he say of the conduct of any Sunni who from the moment when they took up their 'tazia on the Ashra day to the moment of its burial, sang nothing but the praises of the 4 Caliphs, and did so deliberately with the intention of thereby wounding the feelings of their Shia neighbours? Would this be fulfilling the religious duty?”

He replied in the negative, and that he would consider such conduct highly reprehensible.

*What we want is a rule which shall deal effectively with the abuse which seeks to convert a Moharram procession into a “Charyari” demonstration while yet interfering as little as possible with the liberty of the Sunnis to assert the distinguish-*

*ing doctrines of their faith.* We appealed pointedly to Mr. Abdul Shakur to suggest a rule which should accomplish this purpose. He proposed that a rule should be passed forbidding the singing of all the poems or dirges or songs of any sort in connection with the Moharram processions which should not contain the praises of Husain, lamentations for his death or the story of his martyrdom as well as the praises of the Almighty, his Prophet and the successors of the Prophet. We are reluctantly compelled to the conclusion that any such rule would be found impossible of practical application. The public praises of the first 3 Caliphs on the part of Sunnis we consider to stand essentially on the same footing as the public utterance of the words "Bila fasl", by the Shias, and the two matters should be dealt with on the same lines. At the same time the abuse which we have pointed out is one which calls for correction; and we are of opinion that the praises of the first three Caliphs are set out of place as part of a Moharram procession and so inevitably offensive to the feelings of the Shias that some rule should be framed against them particularly in view of the existing state of public feeling in Lucknow. The majority of the Committee is not prepared to accede entirely to the proposals either of its Shia or Sunni members. We have come to the conclusion that it would be advisable to insert in the proclamations issued in connection with the Ashra, Chehlum and Ramzan a general prohibition against singing or reciting along with or on the route of any Tazia, Alam or other Moharram procession, or in the hearing of such procession of words or verses in praise of first three Caliphs to the annoyance of any persons likely to hear the same. Apart from these days, we are of opinion that the question of the public utterance of such praises may well be left to the operation of the ordinary law."

Let us summarise at this stage the recommendations of the majority of the Piggot Committee. They held (1) that Tazias or flags bearing inscriptions should be prohibited; (2) that no flag except the Alam should accompany the Tazia procession;

(3) that recitation of verses containing imprecations on those who do not believe in all the four Caliphs should be prohibited; (4) that simple praise of Caliphs not accompanied by such imprecations should be prohibited on Ashra, Chehram and 21st Ramzan, on the route of any Tazia, Alam or other Moharram processions or in the hearing of such processions or to the annoyance of any person likely to hear the same. The Sunni member disagreed so far as the singing of the simple praises of Caliphs on those three days was to be forbidden while the Shias demanded that the prohibition should extend to the entire period of Moharram lasting for nearly two months and ten days. The majority, however, overruled both contentions remarking that the praise of the Caliphs stand on the same footing as the utterance by the *Shias* of *Khalifatahu bila fasl* with their *azan* every day and should be treated in the same way. It should be noticed that the Shias did not object to *Charyari* processions of flags being taken out at any time outside the period of two months and ten days nor did they take exception to the singing of praises after the expiry of that period.

The Government considered the report of the Piggott Committee and definitely approved of its conclusions by resolution dated 7th January 1909. The contention of the Sunnis that they are entitled to recite the praise of the Caliphs with the Tazia procession was not accepted and in that connection the Governmet proceeded to observe as follows:—

“A practice had grown up, since the separation of Karbala in 1906, by which the Sunnis of Lucknow, while carrying their Tazias in procession, devoted themselves to the organised chanting or recitation of these Charyari verses, ignoring the whole purpose and meaning of the Muharram Ceremonies. It constituted an endeavour to convert the celebration of the Muharram—an observance in honour of the martyrdom of Husain—into a public demonstration of the Sunni belief in the first three Khalifas as rightful successors of the Prophet. That such a proceeding is an innovotion, and that it is highly offensive to the feelings of the Shias is established beyond question. The

Government must retain the right to regulate in the interest of the public peace, what shall or shall not be permitted in connection with public ceremonies and processions such as those now under consideration, and its guiding principle must be to resist any innovation which can possibly give rise to complaint by any body..... It is really impossible for the most zealous Sunni to contend, with any approach to reason, that his co-religionists in Lucknow are entitled to avail themselves of the permission granted them to join in a procession through the public streets in commemoration of the martyrdom of Husain for the sake of turning that procession into an untimely and unauthorised demonstration of their belief in the Khliafas Abu Bakr, Omar and Osman, and assertion of the honour due to them. *The desire of the majority of the Committee, which is entirely shared by the Lieutenant-Governor, is to correct this abuse, without interfering beyond what is absolutely necessary with the right which the Sunnis of Lucknow share with all classes of His Majesty's subject to express at suitable times and in suitable places the distinctive doctrines of their faith.*

It is not always realised that the executive authorities have no power to confer or take away any civil right which is essentially the creature of law. It can, however, control its exercise if it comes in conflict with some other civil right. The policy laid down by the Government in the above passages for the guidance of the District authorities leaves no room for any misunderstanding. The only interference with the right of the Sunnis to recite the praises of the Caliphs is that a *Tazia* procession, which commemorates the martyrdom of Husain should not be converted into a *Charyari* procession. It is, however, not to be disallowed if it is wholly dissociated from Tazias. The Government disapproved of the processions taken out nominally for the celebration of Muharram but actually for a public recital of the praise of the Caliphs, a feature which was foreign to a *Tazia* procession. This is made clear by what the Government said in the same continuation:—

“However, acceptable at other times, to some or all, praises

of the Caliphs may be, they are out of place *when used aggressively at the time of the mourning for Husain.*"

The Government then proceeded to consider the demand made by the Shia dissentient members and observed as follows :—

"The Shia members of the Committee, on the other hand, dissent from the opinion of the Majority on the ground that their recommendation does not go nearly far enough. The desire which is sufficiently apparent from the whole of their memorandum is to secure a pronouncement from Government that the public recitation of the praises of the first three Khalifas is at all times a provocation and an offence against the public peace. It is obviously impossible for the Government to issue any such pronouncement. *The Sunnis have as much right as the Shias to hold the distinguishing doctrines of their faith and to assert the same in the proper time and manner, with due regard to the provisions of Sec. 293 of the Indian Penal Code.* The reason why the Shias have always been restrained from the public utterance of their Tabarra is because this formula is not a mere assertion of their belief in the Khalifa Ali as the immediate and rightful successor of Prophet Muhammad, but pronounces imprecations on the first three Khalifas such as obviously cannot be uttered in public except with the intention of wounding the religious feelings of those who believe in them. A closer analogy is offered by the Shia formula which acclaims Ali as *Khalifa bila fasl*, thus asserting their belief in the immediate succession to the Prophet. They themselves strongly object to being restrained from the public utterance of this formula." Thus the Shia demand for a general prohibition of the praise of the Khalifas was definitely rejected as is shown by the remarks already quoted and what follows it. The Government resolution continued :—

"Putting aside the question of general prohibition, it is to be observed that the actual proposal put forward in the Shia minute of dissent is that there should be, in the Deputy Commis-

sioner's proclamation, a general prohibition against words or verses.....conveying praises expressly or impliedly of the first three Caliphs.....on any public road, or along with any Tazia, Alam or any other Moharram procession or in any assembly at any public place. The only proclamation issued by the Deputy Commissioner is the one which governs the procedure on the three days of the Ashra, Chehlum and 21st Ramzan; and with reference to these days the Shia memorandum only differs from the report of the majority of the Committee by substituting the words "on any public road" for "on the route of any Tazia, Alam or other Moharram procession or in the hearing of any such procession," and by adding the words, "or in any assembly at any public place." The first of these differences is of little importance, and the rule as drafted by the majority of the committee seems on the whole better calculated to meet the case. The proposed addition of the words, "or in any assembly at any public place" is appropriate and should, in the Lieutenant-Governor's opinion, be accepted. The object is to prevent the Sunnis from assembling on these days under pretence of taking part in the usual Muharram processions in honour of Husain, and then converting the assembly into a "Char Yari" demonstration. This being the abuse which the committee desires to combat, *the prohibition of the singing of the obnoxious verses "in any assembly or at any public place" is necessary*; and it is in accordance with the principle underlying the whole of the majority report that the only processions and assemblies on the roads or other public places permitted during the three days to which the proclamation refers should be those held according to ancient custom in celebration of the martyrdom of Husain." The net result of the modification of the Piggott Committee's recommendation regarding the three specified days was that the recitation of the praises of the Khalifas on these days, at any public place, in organised assemblies, was prohibited whereas the Committee had banned it only if it was in the hearing of a *tazia* procession.

Having disposed of the controversy as far as it related to

the Ashra, Chehlum and 21st Ramzan, the Lieutenant-Governor proceeded to consider the Shia demand that the prohibition should be extended to the entire period of Muharram celebrations lasting for two months and ten days. He expressed himself as follows.—

“ It remains to be considered whether the Shia members of the Committee have justice on their side in desiring the further extension of this prohibition over the entire period of two months and ten days covered by their Muharram celebrations. The Lieutenant-Governor observes that in the memorial presented to him on behalf of the Shia community the grievance was put forward that there had been processions of Sunni carrying flags and singing Char Yari verses “ some days before the Chehlum,” as well as on the Chehlum day itself. In the course of the inquiry before the committee those conducting the case on behalf of the Shia seem to have concentrated their efforts on obtaining a total prohibition of the recitation in public of Char Yari verses of any description, even by single individual. They made no attempt to prove the existence of the specific grievance set forth in their memorial, namely organised Char Yari procession on days other than the Ashra and Chelum. The Lieutenant-Governor presumes that the committee made no attempt to frame any regulation to meet this specific grievance, because it was never pressed upon their notice. If however, any such practice has been attempted in the past or is attempted in the future, it is clearly objectionable and should be dealt with by the proper authorities. According to the orders already in force in Lucknow city, processions through the public streets can only be held after proper notice has been given to the Deputy Commissioner and under arrangement sanctioned by him. These orders must be understood to apply also to organised assemblies in public places ; and such processions or assemblies as are in themselves innovations and are obviously calculated to provoke a disturbance cannot be permitted at any time, and still less during the Muharram period. These considerations seem to meet the difficulty which underlie



the presentation made by the Shia members. To issue a general proclamation with intent to render liable to punishment any individual who in any public place and under any circumstances whatsoever sang or recited in an audible voice verses in praise of the first three Khalifas is a step the Government is not prepared to take. As remarked by the majority of the committee, the provisions of sec. 298 of the Indian Penal Code have not been abrogated in Lucknow city. Any person who utters in the hearing of another any words with the deliberate intention of wounding the religious feelings of the other will be liable to punishment, unless he can prove that his conduct was covered by one or other of the general exceptions to the Indian Penal Code."

It should be noted that the orders of the Government as regards the three days mentioned in the rule were not extended to the entire period of two months and ten days, nor did the Lieutenant-Governor find as a fact that there had been processions of Sunnis carrying flags and singing Char Yari verses some days before the Chehhlum and on the Chehulum day itself. He however, expressed the opinion that if any such practice had been attempted in the past or is attempted in the future it is clearly objectionable and should be dealt with by the proper authority. The following comments are to be made in this connection: (1) These remarks have a reference only to the period of two months and 10 days and (2) The prohibition is limited to the singing of Char Yari verses which were objected to by the Shias because they contained not only the praise of the Caliphs but also imprecations on those who did not believe in them. This will be manifest from the Shia memorial which the Lieutenant-Governor specially mentioned. The grievance to which he refers and proposes to redress is in these terms:—

"The Sunnis, after the Ashra of the last year (the memorial is dated 8th April 1908) was over and some days before the Chehulum following that Ashra and on the day of the Chehulum itself, took out what they called the Charyari Jhandas and carried it round through different Muhallas of the

city reciting with their processions poem calculated to wound the religious feelings of the Shias." The remark in the Government resolution that such processions or assemblies as are in themselves innovations and are absolutely calculated to provoke a disturbance cannot be permitted at any time and still less during the "Muharram period" was, in subsequent year, torn from its context and misconstrued as prohibiting all processions accompanied by any praise of the Caliphs and taken out at any time of the year. Public praise of the Caliphs as such, even during the Muharram period except, on three days, had not been objected to and was not disallowed. As regards the rest of the order there can be no manner of doubt that the right of Sunnis to take out processions with flags and singing the praises of the Caliphs without, of course, insulting the Shias or their religion was not affected and was safeguarded in clear terms.

The Sunnis insisted on their right and protested against the resolution of the Government and in the Chehlum of 1909 disobeyed the order which was issued in accordance therewith. A number of them was prosecuted and convicted for disobeying the orders. To remove possible misunderstanding Mr. Radice the then Deputy Commissioner issued a proclamation explaining that the recitation of the praises of the Caliphs had been restricted only on 3 days, namely Ashra, Chehlum and the 21st Ramzan, and that on other days the praise of the Caliphs could be recited publicly on obtaining a license therefore if necessary under law. In 1911 the Sunnis applied for permission to take out a procession in which along with other poems Madhe Sahaba was to be recited. Permission was first granted but on representation being made by the Shias it was withdrawn. In 1912 the Government of Sir James Meston was moved to reconsider the resolution of the year 1909 but without success. Though the Sunnis did not thereafter have recourse to civil disobedience against the orders which were issued every year prohibiting the public recital of the praise of the Caliphs during 3 days it is clear that they were dissatisfied with the orders of the Government. In the Chehlum of 1935

some Sunnis disobeyed the orders and were bound over under section 107 of the Code of Criminal Procedure. On the Ashra day of 1936 the order was again disobeyed and some Sunnis were convicted presumably of an offence under Section 188 Indian Penal Code. In the Chehlum following 14 men disobeyed the order prohibiting the singing of the Charyari verses and were arrested.

It will be observed that the general right of the Sunnis to take out a procession in honour of the Caliphs and accompanied by flags and the singing of verses on any day other than the 3 days and at all events after the Moharram period of 2 months and ten days was never in question and had been conceded in the report of the Piggott Committee and the resolution of the Government. That right was challenged for the first time in 1936 when the Sunnis proposed to take out a procession, on the Bara Wafat day which was well outside the period of 2 months and 10 days. The District Magistrate issued an order under Section 144, Code of Criminal Procedure, forbidding the recitation of the verses even though they contained only the praise of the Caliphs. The procession was postponed for the time and was taken out on the 12th June 1936, and only verses from the Quran believed by the Sunnis to imply the praise of the Caliphs were allowed to be recited. Even this was objected to by the Shias. They (Shias) were assured by the District Magistrate by issuing a proclamation pointing out that the names of the Caliphs had not been uttered in the procession of the 12th June 1936. This was rightly construed by the Sunnis as a challenge to their right to recite the praise of the Khalifas in public at any time of the year. The Sunnis resorted to more direct action and started to take out what were called Madhe Sahaba processions every Friday from the Tila Mosque. The District Magistrate took proceedings under section 107 of the Code of Criminal Procedure against the leaders of the movement and regularly issued orders under section 144 Criminal Procedure Code every Friday forbidding such processions. The orders were disobeyed and a

large number of Sunnis were prosecuted under section 188 I. P. C. The District authorities in those days went so far as to prosecute the Sunnis, who recited Madhe Sahaba in their own houses, on the plea that the praise of the Caliphs was audible outside the houses. This state of things continued for several months. Eventually the Sunnis presented a memorial to His Excellency the Governor on the 14th November, 1936 emphasising their right in general and pointing out, in particular, that the recommendations of the Piggott Committee and the policy of the Government formulated in accordance with it had been disregarded by the District authorities. The Shias presented a counter memorial on the 19th December 1936, urging that the sole motive on the part of the Sunnis to take out Madhe Sahaba processions was to annoy the Shias. Thereupon the Government constituted a committee consisting of Hon. Mr. Justice Allsop, I. C. S., Judge, of the Allahabad High Court and Mr. H. S. Ross I. C. S., a Collector in these provinces. It was unfortunate that no non-official element was included in the Committee, as was the case in 1908. Besides inspiring greater confidence the report of a mixed committee would have avoided many errors which are apparent on the face of the report submitted by the official committee.

The terms of reference to the Allsop Committee were as follows:—

1. "In the light of recent events do the principles and policy laid down in the Government resolution of January 7, 1919 require any modification?"
2. "Does the practice adopted by the District authorities in Lucknow with regard to these matters require any modification?"

While the committee re-affirmed the views expressed by the majority of the Piggott Committee and in the Government resolution of January 7, 1909, it approved of the action taken by the District authorities in 1935 and 1936. A complaint was

made before the Allsop committee that the District authorities acted in a high handed manner and misused their powers under Section 144 of the Code of Criminal Procedure in putting down the Madhe Sahaba movement. They did not investigate this matter and disposed of the question with the following remarks:—

“We feel that we should not criticise officers who have had no opportunity of defending their action before us and for this reason we have not gone into the question whether the complaints made by the Sunnis are justified. It is sufficient to say that the illegal methods of the time alleged should not be tolerated in the future whether they have or have not been employed in the past.” The terms of reference required the committee to find “whether the practice adopted by the District authorities in Lucknow with regard to these matters required modification.” It was not possible to answer this question without ascertaining what the authorities did. The latter were on trial and in any case opportunity could be given to them where necessary.

In the resolution of the Government endorsing the report of the Allsop Committee there is absolutely no discussion like what we find in the Government resolution of January 7, 1909. After mentioning the terms of reference and the answers of the committee it says :—

“They (U. P. Government) feel convinced that the patience and impartiality of the Committee will command general appreciation and respect and wish to express their thanks to Mr. Justice Allsop and Mr. Ross..... They wish to make it clear that the Sunnis' right of public or private recitation in praise of the three Khalifas is not in dispute. This right they undoubtedly possess. What is in dispute is merely the method and circumstances in which it had been sought to make such recitations in Lucknow. Where there is a conflict between the tenets and points of view of different communities it becomes the duty of the Government to intervene in

order to ensure public tranquility and to maintain the balance of public convenience. The committee's findings are based on these well recognised principles." These vague generalities were not calculated to satisfy the Sunnis and failed to do so. They justly complained that to do lip service to a right and then to do every thing to prevent altogether the exercise of it is a paradoxical position which cannot commend itself to the intelligent section of the public. In what conceivable method and circumstances can the Sunnis be allowed to recite the Madhe Sahaba is not mentioned by the Government. The action of the district authorities which followed implied that they (Sunnis) cannot do so by any method and in any circumstances. "Public tranquility" should be secured not by the short cut of suppressing an acknowledged right but by proceeding against those who threaten to commit a breach of the peace. It is not surprising that the Sunnis kept up their agitation and challenged the correctness of the answer returned by the Allsop committee to the second question namely whether the practice adopted by the District authorities in Lucknow required any modification. We proceed to offer a few remarks on the report of the Allsop Committee so far as it deals with that question.

The committee found: "The policy laid down in the Government resolution of January 7, 1909 did not require any modification." At the same time they declared that the practice adopted by the District authorities in Lucknow did not require any modification, which implied that the practice of the district authorities was in conformity with the policy laid down for their guidance by the Government resolution of 1909. This was however not the case. A careful examination of the Government resolution of January 7, 1909 as construed by the Allsop committee itself will show that it prohibited Madhe Sahaba processions and the public praises of the Caliphs only on 3 days. This is what Allsop Committee say on the subject:—

"We do not think that there can be any reasonable doubt about the intention of Government. They obviously intended

obtaining a license under the Police Act." If they had followed the policy of the Government they should not have issued orders under Section 144 of the Code of Criminal Procedure against public recital of Madhe Sahaba on other days nor should they have refused licenses for processions on other days. It is, therefore, impossible to say as the Allsop committee have said, that the practice of the district authorities required no modification. Having held on the first question that the policy laid down by the Government resolution of January 7, 1909 did not require any modification there can be no manner of doubt that the answer of the Allsop committee to the second question involves a contradiction in terms.

Different considerations apply to the Madh-e-Sahaba processions on the Ashra, Chehlum and the 21st Ramzan and to those on other days. The reason for drawing this distinction is that the right of Sunnis to take out processions on these days comes in conflict with the right of the Shias to celebrate Muharram on these days, whereas on other days the exercise of their right by the Sunnis is objected to not on the ground that it comes in conflict with the exercise of any right by the Shias but because, it is said, that public recital of Madh-e-Sahaba annoys the Shias.

The principles which should guide the executive authorities in disallowing processions with music and the exercise of other similar rights have been repeatedly enunciated by the Indian High Courts and the Privy Council. The Allsop committee were referred to a number of cases which are mentioned in their report. For ready reference they are herein quoted at length. It will be easily found that mere annoyance to one section is no ground for depriving another of the exercise of his right nor was the plea that a certain observance was innovation accepted as a sufficient answer.

Indian Law Reports 2 Madras p. 140 is very instructive  
point

In the year 1871 the District Magistrate granted permission to the Musalmans of Shevapett to erect a mosque subject to the condition that they would agree to allow free passage to all processions passing the mosque and at the same time directed that all music should cease while any procession was passing or repassing the mosque. The Hindus instituted a suit in a Civil Court against some representative Musalmans in order to obtain a declaration that this general direction on the part of the District Magistrate was illegal. In second appeal the High Court gave the Hindus a declaration that they were entitled to take processions attended by music past the mosque on all lawful occasions and in a lawful manner so as not to disturb the respondents or other persons who might be assembled for the performance of religious worship or religious ceremonies. In the course of their judgment the learned Judges remarked:—

“In the proper governance of a country of which different sections of the inhabitants hold widely divergent creeds, it is of course necessary that regulations should be established securing the members of each sect in the legitimate performance of their devotional exercises, from improper interference on the part of members of other sects, and such regulations find a place in the law of British India (Indian Penal Code, Chapter XV).

“But at times the rights of the several sects to the undisturbed exercise of their religious observances may come into conflict without any criminal intention. In such cases mutual toleration is, and must be the only and proper rule. It has then to be determined how far the conflicting rights interfere with and necessarily modify each other.”

“It is, on the one hand, a right recognised by law that an assembly lawfully engaged in the performance of religious worship or religious ceremonies shall not be disturbed. It is on the other hand, a right recognised by law that persons may, for a lawful purpose, whether civil or religious, use a common highway by parading it attended by music, so that they do not



obstruct the use of it by other persons. If persons passing in procession attended by music pass a place in which others are assembled and engaged in public worship which the music would tend to disturb, it is the duty of the persons composing the procession to refrain from such disturbance; but assemblies for purposes of worship are held scarcely in any place at all hours and generally at appointed hours, and therefore it is unnecessary that there should be a rule that persons should not at any time pass along a high road in the neighbourhood of a recognised place of worship, if attended by music. If indeed the procession be of a religious character, the prohibition of it may be as real an interference with the free exercise of religion as in allowing it to proceed past an assembly engaged in worship attended with such circumstances as to disturb that worship, and if no religious procession is to be allowed to pass a recognised place of worship, whether persons are or are not at the time there assembled and engaged in religious worship, the members of a numerous sect might close every highway to the processions of a sect to which they are opposed by erecting in the neighbourhood of each highway a place of worship."

"The law in the restriction it imposes on processions of whatever character does not go beyond the necessity. The order then passed by the Magistrate is not warranted by law, nor has he generally authority to declare the law on the subject and anticipate a breach of it by a prohibitory order. For the preservation of the public peace he has a special authority—an authority limited to certain occasions. His first duty is to secure to every person the enjoyments of his rights under the law, and, by measures of prosecution, to deter those who seek to invade the rights of others; but if he apprehends that the lawful exercise of a right may lead to civil tumult, and he doubts whether he has available a sufficient force to repress such tumult, or to render it innocuous, regard for the public welfare is allowed to over-ride *temporarily* the private right, and the Magistrate is authorised to interdict its exercise."

*“The duration of this authority in the Magistrate is co-extensive with the emergency that justified the exercise of the authority.”*

The second ruling is in the case of Sundaram Chetti v. The Queen (I. L. R. 6 Madras, P. 203). The judgment was delivered in the year 1883 by the High Court in deciding an appeal arising out of a criminal case. There had been riots over the Shevapett mosque dispute in the year 1882 and some of the rioters were prosecuted. The Sessions Judge in the course of his judgment in the case had suggested that the decision of the High Court in the earlier case might have been somewhat different if matters had been presented to the Judges in their proper light. He said:— “The custom of stopping Hindu music in front of Muhammadan mosque has nothing to do with the devotional spirit of the people, but is based on the supposed sanctity of the building.” The learned Chief Justice, who delivered the judgment of the High Court in appeal, did not accept the suggestion. He pointed out that the alleged custom had not been pleaded in the High Court. He also said that even if it existed it was one of those customs which had their origin in times when the state religion influenced the public and private Law of the country which are hardly compatible with the principles which regulate British administration. He said further that a custom in order to have the force of law must be reasonable and he doubted whether the custom stated by the Sessions Judge would be reasonable. “A man” he said “may have just ground for complaint if he is compelled to recognise the sanctity claimed for a place as the seat of a worship he believes to be false; he has no just ground for complaint if he is compelled to recognise the civil right of his fellow citizens to be protected from disturbance when they assemble for public worship.” He then gave a resume of certain Government orders which had been issued about the conduct of religious processions and said:—

“I have referred to these orders to show that at the time the decision of this Court was pronounced, there was substan-

tially little difference in the opinions entertained by the executive and judicial authorities. Both acknowledge the existence in every citizen of the right to use a public highway for processional as well as for ordinary purposes. Both recognised in the Magistrate power to suspend and regulate, and in the police a power to regulate the exercise of the right.

They differed in this, that the Government intimated in too general terms that the power committed to the Magistrate should be exercised invariably, while the Court felt itself constrained by the terms of the law to pronounce, that it should be exercised only on a consideration of the circumstances of the occasion. In the orders subsequently issued by the Government, the limitation placed by the law on the power of the Magistrate is fully recognised.

The Sessions Judge asserts that to the ordinary native mind the order of June 1, 1892, suggested a direct conflict between it and the orders of the High Court. I cannot affirm nor contradict this opinion; but I am bound to say the conflict is not apparent to my mind. The order prohibited the Magistrates from denuding the rural districts of their police force in order to enable certain persons, regardless of ancient custom, to carry out a procession.

The first duty of the Government is the preservation of life and property, and, to secure this end, power is conferred on its officers to interfere with even the ordinary rights of members of the community. The order of March 26, 1859, appreciated *the distinction between rights which have a primary and rights which have a secondary claim to such protection as the Government can afford and where the Government cannot protect both classes of rights, it may and it ought to abandon the latter to secure the former. In this view, it matters not whether the exercise of the right of procession is of ancient usage or a novelty*; the Government is not bound to deprive some members of the community of the services of the force that is found necessary for the protection of their

lives and property to enable others to exercise a right which not only is not indispensable to life or to the security of property, but, in the case assumed, creates an excitement which endangers both.

It cannot be reasonably required that the Government should increase the force maintained for the protection of the peace to such an extent that its cost will cast an undue burden on the resources of the country.

It will be noticed that the several orders of the Government before quoted, with the exception of the order of May 9, 1874, instruct the Magistracy, where the exercise of a right is disputed, to maintain ancient usage until the dispute is determined by judicial decision; and that they do not apply to cases where the exercise of the right is sanctioned by such usage or has been established in a Court of Justice. Where reasonable doubt exists as to the question of right, it is no doubt the proper course for the Magistrate to have regard to usage, although the existence of the right may not depend on usage. On the other hand, if the Magistrate is satisfied of the existence of an emergency which calls for the exercise of the power conferred on him by sec. 518 of the Code of Criminal Procedure, 1872 he is justified in suspending the exercise of rights however well ascertained.

I must nevertheless observe that this power is extraordinary, and that the Magistrate should resort to it only when he is satisfied that other powers with which he is entrusted are insufficient. *Where rights are threatened, the persons entitled to them should receive the fullest protection the law affords them and circumstances admit of. It need no argument to prove that the authority of the Magistrate should be exerted in the defence of rights rather than in their suspension; in the repression of illegal rather than in interference with lawful acts. If the Magistrate is satisfied that the exercise of a right is likely to create a riot, he can hardly be ignorant of the persons from whom disturbance is to be apprehended and*

*it is his duty to take from them security to keep the peace.....*

In affording special protection to persons assembled for religious worship or religious ceremonies, the law points to congregational rather than private worship, and it may fairly be required of congregations that they should inform the authorities of the hours at which they customarily assemble for worship, in order that the rights of other persons may not be unduly curtailed ... ..

An order, which came before this Court, prohibiting a private house-holder from having music in his house at any hour of the day or night throughout the year, because the house was adjacent to a place of religious worship, illustrates the intolerance an indiscreet Magistrate may countenance.....

*The paragraph of the petition to which I have referred doubtless represented correctly the opinion of the Hindus that they were deprived of their due because the Muhammadan were 'troublesome'. The prohibitory order was dictated by the Magistrate's apprehension, that disturbance would attend the exercise of the right; but from whom was disturbance to be apprehended except from the party that opposed the exercise of the right? Such an order issued under such circumstances involves an admission that lawlessness is anticipated and that at the time the executive is not in a position to afford adequate protection. When such orders are repeated, their justification, the preservation of the public peace, is not so obvious to those whose rights they interfere with as are their results. The impression is created that the authorities are powerless against the class from whom violence is apprehended; and that a show of force similar to that which has rendered a judicial award practically in-operative will be more effectual to secure the recognition of civil rights than an appeal to the constituted tribunals.*

*"When this impression takes hold of the minds of the large majority of the population, graver dangers are to be apprehended from refusing than from conceding protection to the legitimate*

*enjoyment of civil rights.* Men to whom obedience to authority is distasteful are to be found in every party, but even those who are ordinarily anxious to uphold authority may be seduced by a sense of hardship and the example of successful tumult."

In the case of *Sadagopacharair v Rama Rao* (I. L. R. 26 Madras, P. 376) it was held that "*the right to conduct religious procession through the public streets is a right inherent in every person, provided he does not THEREBY invade the rights of property enjoyed by others or cause a public nuisance or interfere with the ordinary use of the streets by the public, and subject to directions or prohibitions for the prevention of obstructions to thoroughfares or breaches of the peace and that every member of the public and every sect has a right to use the streets in a lawful manner, and it lies on those who would restrain him in his exercise to show some law or custom having the force of law depriving him of the privilege.*"

These cases were considered by their Lordships of the Privy Council in 1924 in the case of *Manzur Hasan and Muhammad Zaman* (52 Indian Appeals P. 61). That case "arose out of a dispute between the Shias and Sunnis of the town of Aurangabad over the question whether the Shias in the course of a Tazia procession were entitled to stop in the public thoroughfare near the Juma Masjid in order to perform Matam, that is to beat their breasts and utter lamentations. In the year 1915 the Sunnis had interfered with the Shia procession on the ground that it disturbed their devotions in the mosque. In order to prevent disturbances the Magistrate passed a regulation for the year in question that there should be no performance of Matam within a certain distance of the mosque until the procession had passed a certain distance beyond the mosque. The Shias instituted a suit in the Civil Court in order to get a declaration that the 'plaintiff along with other Shia residents of the Qasba Aurangabad were entitled to stay and perform Matam in a circle at the public thoroughfare at the back of the newly built Juma Masjid and that the defendants (certain

Sunnis) had no right or title to offer obstruction to the same or stop it." The subordinate Judge made the following decree:—

"It is declared that, subject to the order of the local authorities regulating the traffic, the plaintiff ave got the right to make short stays on the road at the back of the Juma Masjid at Adrangabad for the performance of Matam. The defendants specially those named in the plaint are hereby prohibited from making interference in the performance of Matam." The High Court in appeal dismissed the suit. The learned Judges held that a community had a right to go in procession through a public street subject to the control of the Magistrate and to the use of the public thoroughfare in a reasonable and usual way but that the right claimed in the suit was one to block the right of passage in an unreasonable manner. Their Lordships of the Judicial Committee reversed the decision of the High Court. They discussed a number of rulings of the Courts in India including those to which we have already referred. Their Lordships stated that the first question was whether there was a right to conduct a religious procession with its appropriate observances along a highway and their decision was that the answer was in the affirmative. They then said:—

"Two other questions have, however, emerged. In several cases one sect claimed the exclusive use of the highway for their worship. This has been consistently refused. The other question, which goes deep into what ought to be done in the present case, is this: Does a Civil Court suit lie against those who would prevent a procession with its observances?" They pointed out that there was a Bombay case in which it had been held that no such suit would lie, but that the Madras view in the cases already quoted was to the contrary effect. Their Lordships said:—

"There Lordships are of opinion that the views of the Madras Courts are right and that the Bombay judgment is wrong. They think that the appellants are entitled to the declaration granted to them by the District Judge but propose

to add to it, after the word 'traffic' the words 'to the Magistrate's directions and the rights of the public.' If their Lordships were simply to dismiss the appeal the effect would be misunderstood in India. Every different sect or religion whose places of worship are upon the routes where the processions of those with whom they do not agree pass, would appeal to the judgment as settling that the functions of the procession should cease as it passed them. But if the declaration as made by the District Judge is granted the Magistrates will still be able to make any arrangement they choose, and, if they choose to repeat the order that forbade doing Matam within a certain distance of the mosque, that order would be an order passed in respect of special circumstances, not a general pronouncement as to rights."

The Allsop committee have thus enunciated the law :—

"A Magistrate is not ordinarily justified in forbidding a harmless act only because some rowdy elements have an unreasonable objection to it and intend to use it as an occasion for a breach of the peace but if there is an objection to any act, he must decide whether it is harmless or whether it is a cause of substantial annoyance or inconvenience to others. If the act is harmless he should to the best of his ability protect those who wish to perform it and suppress those who object to it but if it is a cause of annoyance or inconvenience he should equally intervene to protect those to whom annoyance or inconvenience may be caused.

This is the conclusion of the committee on the examination of the rulings noted by them. A careful reading of the proposition laid down by the committee with the views expressed in the rulings above quoted will show that an entirely different complexion is imported to the rule enunciated in the rulings which they profess to follow, by the use of such words as "harmless", "unreasonable objection," "annoyance" and "inconvenience to others". The case law which the committee accept nowhere uses these terms. But apart from this, in law an act, not an offence, or actionable wrong is harmless if it



causes no harm or injury to the person or property of another; an objection is in law unreasonable if the person objecting has no legal right to object; and annoyance in law means something which amounts to nuisance or something approaching a nuisance. As for inconvenience, unless it be taken to mean such physical discomfort as endangers public health or safety, every procession or gathering at a public place will come within the mischief of the rule. If these terms be accepted in these technical senses the dictum of the Allsop committee might, possibly, be considered to be in accordance with the cases already noted, but the committee clearly do not use them in any such senses but loosely. The following observation is illustrative:—

“ Properly considered the Sunni arguments all seem to be based on the assumption that Madh-e-Sahaba processions are harmless. We have already shown that this assumption is in some circumstances not justified. We can imagine other circumstances in which it might be justified. *If at any time it could be inferred that the recitation of Madh-e-Sahaba was a perfectly independent religious observance having no concern with the Shias or any Shia ceremony, we do not think that Shias could reasonably object to it.* The question is largely one of the intention but intention can be inferred only from conduct and when we examine the conduct of the Sunnis in 1935 and 1936, we are forced to hold that their desire to recite Madh-e-Sahaba arose out of a feeling directed against the Shias..... *The Sunnis had entered into a contest with the Shias and their real object was to gain a victory. They were determined to recite Madh-e-Sahaba publicly in spite of Shia opposition and if they succeeded, they certainly intended that the Shias should be aware of their success.*” Their answer to the second question is based on that view. They say:—

“ Our answer to the second question is that the practice adopted by the district authorities in Lucknow does not require modification .....provided that the ground upon which public recitation of Madh-e-Sahaba is forbidden

is that it is calculated to cause inconvenience to the public or reasonable annoyance to the Shias."

The proviso is important. It would allow the district authorities to prohibit Madh-e-Sahaba on one of two grounds, namely, (1) inconvenience to the public and (2) "reasonable annoyance" to Shias. The first ground may be shortly disposed of. No district officer in Lucknow can conscientiously prohibit Madh-e-Sahaba merely on the ground of public inconvenience. Many hundreds of processions, a number of them on larger scales and attracting larger crowds, are allowed by them every year. The public will bear no appreciable inconvenience if one or two Madh-e-Sahaba processions are also allowed. The inconvenience if any can be minimised by suitable directions as regards the size of the procession and time of its being taken out. No non-Shia section of the population has ever complained or is likely to complain for the obvious reason that every other section takes out similar processions. There is always give and take in matters of this kind. On the ground of inconvenience alone Shias should be the last persons to object as they themselves take out every year a large number of processions through public streets.

The second ground is more controversial. It is difficult to understand what precisely the committee mean by "reasonable annoyance". Evidently they mean annoyance which a reasonable person will not tolerate. This formula is so vague that, standing by itself, it can hardly serve as a guide to the district authorities. But if it is to be understood in the light of their remarks last quoted it is clear that, in the view of the committee, Madh-e-Sahaba is not calculated to cause "annoyance" in normal circumstances, if it is "a perfectly independent religious observance having no concern with the Shias or any Shia ceremony". Conflict with a Shia ceremony can be easily avoided by alteration of dates or times of the two ceremonies. As regards Shias having "no concern", the committee mean that the recitation should not be "directed against the Shias" *i. e.*, should not be such as to annoy them. It annoys

the Shias because of the existing tension and the rivalry over the Sunni right to recite it, so that, if the Sunnis gain their object the Shias will feel humiliation and consequent annoyance at the Sunni victory. This view gives away the case of the Shias so far as it may be considered to be based on religious susceptibilities. Once it is conceded that the public praise of the Caliphs, in conceivable circumstances, does not annoy the Shias, it becomes manifest that they complain of loss of prestige and not of wounded religious feelings, because if latter had been the case public praise of the Caliphs would annoy them in all other circumstances. Annoyance of this kind is not "wounding the religious feeling" of Shias so as to make it an offence under Section 298 I. P. C. This feature distinguishes it from *tabarra*, a deliberate utterance of which in the hearing of Sunnis is always an offence. The reason is obvious. The words constituting *tabarra*, by themselves, imply insult to the religion of Sunnis while the praise of the Caliphs does not imply insult to any one. It may be that the Shias do not consider the Caliphs to be praiseworthy. Not many religious leaders held in esteem by followers of one religion are considered praiseworthy by followers of another religions. The Jews have their own beliefs about Jesus Christ, Virgin Mary and Prophet Muhammad but they have no reason to feel annoyed at the Christians and Muhammadans publicly praising them. Instances of this kind can be multiplied. The Piggot Committee and the Government resolution of 1908 have correctly laid down the test in the passages previously quoted. They consider *tabarra* to be an offence while the praise of the Caliphs to be as innocent as the public utterances of "*Khalifatahu bila fasl*" by the Shias. The Allsop Committee, on the other hand, made some observations contrary to the report of the Piggot Committee and the Government resolution which they affirm. Those observations are quoted below :—

"There is no true analogy between Madhe Sahaba and Tazia Processions ; a truer analogy would be between the recitation of Madhe Sahaba and *tabarra* and thus in our opinion it cannot

nation against the Sunnis in the Government resolution.” They say at another place : “ We do not approve of the public recitation of *tabarra* and the Shias in the present circumstances admit that it is objectionable, but if Sunnis were allowed to recite Madh-e-Shaba publicly merely to advertise their belief that the first three Khalifas were worthy of praise, Shias might with some justice claim to recite *tabarra*.....”

The incorrectness of this analogy has already been pointed out. Further it should be observed that it is diametrically opposed to the views expressed by the Piggot Committee and the Government resolution of 1908. The former expressed itself in the following terms :—

“ The public praise of the first three Caliphs on the part of the Sunnis we consider to stand essentially on the same footing as the public utterance of the words *Khilafatahu bila fasl* by the Shias and the two matters should be dealt with on the same lines.”

The Government resolution of 1908 lays down as follows :—

“ The reason why the Shias have always been restrained from the public utterance of their *tabarra* is because this formula is not a mere assertion of their belief in the Khalifa Ali as the immediate and rightful successor of the Prophet Mohammad but pronounces imprecations on the first three Khalifas such as obviously cannot be uttered in public except with the intention of wounding the religious feelings of those who believe in them. A closer analogy is offered by the Shia formula which acclaims Ali as *Khalifa bila Fasl*, thus asserting their belief in the immediate succession to the Prophet. They (Shias) themselves strongly object to being restrained from the public utterance of this formula.”

The Allsop Committee have completely overlooked the distinction emphasised in the Government resolution of 1908, namely that *tabarra* is an offence while the praise of the

Caliphs is not. The present *tabarra* agitation has been prompted by the remarks occurring in the Allsop Committee's report and the Shias maintain that if the public praise of the Caliphs by the Sunnis is allowed they should also be allowed to recite *tabarra* publicly.

To any one familiar with the social and cultural life of the Muslims the controversy can present little difficulty. In every day life the names of the Caliphs are mentioned in the presence of the Shias with words of respect added to them. Far from taking offence at such reference the Shias themselves mention their names with respect. Urdu literature abounds in praises of the Caliphs. The praise of the Caliphs in the press and in public speeches is common enough. It has never been complained by the Shias that their religious feelings are wounded and that the praise of the Caliphs thus publicly made should be banned. The same cannot be said of *tabarra* which is deprecated by a large number of Shias themselves throughout the length and breadth of this country, and, for that matter, every where else in the Muslim world including Persia which is a Shia country. It is easily possible to quote from utterance of eminent Shias in praise of the Caliphs. In his famous book "Spirit of Islam" the late Mr. Amir Ali a renowned Shia of great learning makes the following remarks :—

"At this time the new Faith gained a valuable adherent in Omar, whose energy of character made him an important factor in the future Commonwealth of Islam. His services to the religion of Mohammad have engraved his name on the pages of history" (p. 37.)

"After his conversion, he (Omar) became one of the bulwarks of the Faith."

"Islam need no more hide its head in byways and corners, go about in concealment, or offer its prayers to God in secret and trepidation. Besides a large following taken from the humbler walks of life, there were now gathered round the

Prophet a chosen band of apostles, consisting, not of ignorant folks, but of men of energy, talent, and worth, like Hamza, Abu Baker and Omar. And though Ali was in his youth, he was fast rising into prominence " (P. 38)

" Abu Baker before his death had nominated Omar as his successor in the vice-regency, and the appointment was accepted by the " universality " of the people, including the House of Mohammad." (P, 127)

" To avoid all imputation of favouritism Omar had, before his death, appointed as electoral committee consisting of six eminent members of the Muslim congregation to choose his successor. Their choice fell on Osman, a descendent of Ommayyah, who was installed as Caliph with the suffrage of the people." (P. 127)

" The stern devotion of the early Caliphs to the well-being of the people, and the austere simplicity of their lives, were in strict accordance with the example of the Master. They preached and prayed in the mosque like the Prophet ; received in their houses the poor and oppressed, and failed not to give a hearing to the meanest. Without cortege, without pomp or ceremony, they ruled the hearts of men by the force of their character. Omar travelled to Syria to receive the capitulation of Jerusalem, accompanied by a single slave. Abu Baker on deathbed left only a suit of clothes, a camel and a slave to his heirs. " (P. 280)

In his History of Saracens the same author says :—

" Abu Baker, who by virtue of his age and the position he had held at Mecca occupied a high place in the estimation of the Arabs, was hastily elected to the office of Khalifa (Caliph) or vicegerent of the Prophet. He was recognised as a man of wisdom and moderation, *and his election was accepted with their usual devotion to the Faith by Ali and the chief members of Mohammad's family*". (P. 121)

“ Like his master, Abu Baker was extremely simple in his habits, gentle but firm; he devoted all his energies to the administration of the new born State and to the good of the people. He would sally forth by night to help the distressed and relieve the destitute. For a time, after his election, he continued to maintain himself with his own private income, but finding that in looking after his property and business he was not able to pay sufficient attention to the affairs of the State; he consented to receive 6,000 dirhems annually from the treasury. On his death-bed, however, he was so troubled at having taken public money that he directed one of his properties to be sold, in order to refund to the State the sum he had received.”

“ Such were the simple, honest ways of the immediate disciples of Mohammad.” (P. 26-27)

“ Omar’s accession to the Caliphate was of immense value to Islam. He was the man of strong moral fibre and a keen sense of justice, possessed of great energy and force of character ” (P. 27)

“ The death of Omar was a real calamity to Islam. Stern but just, farsighted, thoroughly versed in the character of his people, he was especially fitted for the leadership of the unruly Arabs. He had held the helm with a strong hand and severely repressed the natural tendency to demoralisation among nomadic tribes and semi-civilized people when coming in contact with the luxury and vices of cities. He had established the Divan, or department of finance, to which was entrusted the administration of the revenue, and had introduced fixed rules for the Government of the provinces.....of simple habits, austere and frugal, always accessible to the meanest of his subjects. Wandering about at night to inquire into the condition of the people without any guard or court-such was the greatest and most powerful ruler of the time.” (P. 43)

“Omar could easily have nominated Ali or his own son, the virtuous Abdullah, surnamed Ibn Omar, as his successor to the Caliphate ; but with the conscientiousness which characterised him he entrusted the election to six notables of Medina.” (P. 45)

“During the thirty years that the Republic lasted, the policy derived its character chiefly from Omar both during his lifetime and after his death.....Had Omar lived longer, his force of character would have enabled him to make the Arabs more homogeneous, and thus prevented the disastrous civil war that led to the ruin of Islam.” (P. 57.)

“The title (of Ameer) was continued by Omar, who may be regarded as the practical founder of the political administration of Islam.” (P. 60)

In his book “Outlines of Islamic Culture” Vol. I Maulana A. M. A. Shushtery, professor of Iranian language in the Mysore University, a Shia author of distinction says:—

“The four early Khalifas lived simple lives and carried out their administrative duties in a paternal spirit. They devoted their lives to secure the welfare of their subjects. They did not live in palaces ; neither did they wear the crown nor did they sit on the throne. They had no bodyguards to protect them. Their humble dwellings served the purposes of palaces, and they held their Durbars in mosques, where the most humble Muslim, white or black, master or slave, could approach them and place his grievances before them. They acted as the chief executive of the nation and as chief magistrates and financiers. They had neither *Vazirs* nor ministers to serve them. They attended in persons even to minor matters pertaining to administration. They raised armies, appointed commanders encouraged and appealed to Muslims to enlist themselves in the army. They also distributed booty, settled disputes-criminal and civil.” (P. 53.)

“Umar the second Kaliph, instituted a *divan* (Secre-



tariat), reformed the military organisation and "appointed *Cazis* or judges at Kufa, Basra and other centres of the Empire." (PP. 53-54.)

"He (Umar) was an austere man and was assassinated by an Iranian slave." (P. 118.)

During the caliphate of the 1st 3 caliphs,

*"the early companions of the Prophet and his relatives received generous pensions from the public treasury. Among them was Ali....."* (P. 119)

It is possible to quote many other encomiums from Shia sources on the Caliphs but space does not allow of any more references. Non-Muslim writers in praise of the Sahaba can be quoted in abundance but their views are not as material as those of Shia scholars in order to establish that far from wounding their religious susceptibilities it is endorsed by them in terms which reveal their feelings and those of their coreligionists. It may be true that the generality of Shias think that the good points of the first three Caliphs are emphasised by enlightened Shias who, however, refrain from making such imputations against those Caliphs as are made by extremist Shias. If any thing, this completely demolishes the theory that the proper rejoinder to the public praise of the three Caliphs is *tabarra*; on the contrary, the opinion reflected by the writings of enlightened Shias as also by utterances in all social and literary affairs of life, is that praise should be, at least, tolerated and not resented.

The reason for the present excitement among the Shias of Lucknow on the question of Madhe Saheba, is as already explained, not their alleged abhorrence of the Caliphs but their wounded pride which had become accustomed, during the last thirty years, to the indulgence shown by the district authorities. It is remarkable how during that period demand after demand made by the Shias met with acceptance at the hands of the Government partly because Shia influence has always been strong in Lucknow and partly for want of appreciation of the issues involved. The plea that Madhe Saheba is an innovation

and annoys the Shias found a too ready acceptance. Hardly any trouble was taken to examine the implications of this plea in the light of what had been ruled by the Piggot Committee and the Government resolution of 1908. That an act is an innovation is no valid objection if it (the act) is inherently lawful. The plea of innovation was rejected in some of the cases already cited. It is a matter of common knowledge that processions which were rare in the past are now of frequent occurrence amongst all classes of the people, and that a number of functions and 'days' have now come to be celebrated in India. All these are innovations. Functions in honour of Sivaji and Ranjit Singh were not heard of till comparatively recently. The question of annoyance has been already dealt with. It may be true that many Shias are annoyed at the insistence of the Sunnis to recite the praise of the Caliphs. The feeling has, as already explained, little to do with their religious susceptibilities and arises from the consciousness that, in the present state of tension, any public recital of Madhe Saheba will be, in reality, an exultation on the part of the Sunnis at the defeat of the Shias. It may be equally true that some Sunnis are prompted by the reprehensible motive of annoying the Shias, but with a large majority of them the question has assumed an importance which they cannot afford to overlook. They genuinely feel that their right has been challenged and that they must vindicate it. A problem like this is of frequent occurrence in this country. Music before mosque is an instance in point. Mohammedans insist, at some places, that at no time of the day a procession with music should pass in front of particular mosque. When once a tension exists over this question there is always a feeling of annoyance on one side and a claim of right on the other. Mohammedans feel great annoyance at music being played before the mosque while some of the processionists make it a point to indulge in music in front of the mosque to annoy the Mohammedans. Another instance is afforded by the case which went up to Privy Council (52 I. A. P. 61) and in which the right of Shia processionists to do *matam* in front of a Sunni mosque raised the

same issue. The Shias insisted on their right to do it. The Sunnis complained that the *Matam* even at other than prayer times, at that particular spot, was intended to annoy them. Again, at certain places, Mohammedans object to the blowing of conch on the ground that it is offensive to them and is an innovation in their locality. In certain other places *azan* is said to be offensive to the Hindus who object to it as an innovation and annoying to them. In all these and similar cases, once the controversy has arisen, the party objecting to a thing being done will be annoyed if it is allowed to be done and some of the successful party are actuated by the unworthy motive of exulting over the defeat of their adversary and of excessive exercise of their right in order to annoy the other side. Can it be reasonably contended that others who are interested in the vindication of their right should be deprived of it because, in a state of tension, it annoys some others?

If the test of 'reasonable annoyance' (it can only mean, annoyance which a reasonable person would not tolerate) be applied to all such cases the feeling of a person moved by reason (and not by passion and prejudice or wounded pride) should be one of contempt for those who do not really act in vindication of a right but to annoy him and he is expected to be animated by a regard for the rights of others and not by false pride.

The persistent agitation of the Sunnis and a reasoned presentation of their case awakened the Government to a realisation of the justice of their case and resulted in the communique of the 31st March, 1939, which in token of recognition of their rights, gave a limited effect to the policy laid down in 1908 which is itself based on the law of the land. It was not unlikely that the right of the Sunnis having been vindicated, they would have reconsidered the whole situation to the satisfaction of all concerned, but even before the communique was published our Shia brethren (who had come to know of the decision of the Government) started the *tabarra*

agitation with a virulence which eclipsed every previous civil disobedience movement, in the expectation that it would bring the Sunnis, and, presumably, also the Government to their knees in a short time. A remarkable feature of this movement is that the educated and wealthy sections sponsored the movement with an earnestness which was worthy of a better cause.

The presentation of the naked issue was not calculated to arouse much enthusiasm and for that reason the movement was styled as Mahaz-i-Husaini (front in support of Husain) a most misleading name as Husain's sacred name is in no conceivable manner involved in the controversy. The unwary, both among the Shias and Sunnis, living at distant places, did not realise the nature of the movement till they found themselves in jail, where by association with other persons they discovered the implications of the movement, and apologised to secure their immediate release. The majority of them who went to jail by disobeying orders under Section 144 Cr. P. C. hailed from the Punjab and were made to get themselves arrested immediately on arrival in Lucknow. Complaints lodged in open court by some, who were actually convicted or were undertrial prisoners, show that the nature of the propaganda in the Punjab was such as to attract not only Shias but Sunnis also. The following instances throw a flood of light on what is happening in the Punjab:—

On the 12th June, 1939, three persons Chiraghdin, Abid Hussain and Ferozedin presented themselves before the City Magistrate of Lucknow. Chiraghdin, whose statement was corroborated by Abid Hussain, declared that he was a Sunni resident of a village in the Lyallpur district and that he had come with a certain *jatha* consisting of people from his neighbourhood, at the instance of one M. Syed Mohd. Dehlavi who addressed a large gathering of Muslims including *Sunnis* and represented that a party had been formed in Lucknow whose creed was to revile the Imams and Muslim leaders and to give preference to Yazid and Shimr over Hazrat Ali, and that all

Muslims including Sunnis were opposed to that party. He went on to say that the Government had set up the party and supported it in every way. According to Chiraghdin 272 persons agreed to form part of the *jatha* which arrived at the Lucknow station on the 12th June, 1939 ; and proceeded to the Imambara Asafia. Subsequently the *jatha* came out of the gate and the leaders pronounced *tabarra*, the others remained silent. All of these, however, were arrested and sentenced to three months' rigorous imprisonment and Rs. 15/- fine each. At the trial the leaders were examined and they admitted having uttered the *tabarra*. When the prisoners were in jail he and his companions gave a petition to the jail authorities stating that they had not said *tabarra* and that they were Sunnis. Thereupon the two, namely, Chiraghdin and Abid Hussain were released. They also alleged that a number of those who have been convicted were Sunnis and had been seen by them saying their prayers in the Sunni form. The 272 persons who formed the *jatha* were divided into batches and sent to different jails. The third man Ferozedin said that it had been represented to him that the Government in the U. P. was a Hindu Government which oppressed the Muslims and had prohibited the mention of the name of Hussain in public. According to him his village contributed a sum of Rs. 63/9/- and 19 maunds of wheat. Four other men had proceeded to Lucknow. They were given a slip of paper with instructions to show the same to the volunteers at the Railway station. Railway tickets were purchased for them by some Shias at the station. When the train arrived near Malihabad station a fellow passenger told them the nature of the *tabarra* agitation and contradicted the allegation that no one was allowed to mention the name of Hussain in public or that the Muslims were being oppressed by the Govt. On the contrary, he said, that the Shias abused the Caliphs. On arrival at Lucknow they refused to go to the Imambara. Two of his companions went back to the Punjab and the other two proceeded to Gonda.

On 13th July, 1939, one Ali Mohammad Khan, son of

Abdul Razzaq Khan of village Rai Sahib Ki Basti in the district of Multan, presented an application before the City Magistrate of Lucknow alleging that he was a Sunni and son of a military officer in receipt of a pension of Rs. 110/- per month. One Moulvi named Maulana Mohd. Bashir went to his neighbourhood ten or twelve days before and addressed a number of meetings saying that there was a mosque in a Mohalla of Hindus who used to throw stones when the azan was called out or the Muslims stood up for their prayers. His father contributed Rs. 150/- and Rs. 750/- were contributed by his Mohalla people. A number of women handed over two seers of silver and 8 tolas of gold. The appeal for funds was made on the plea that the Congress Government was against the Muslims who stood in need of money to defend themselves. Ali Mohammad Khan the petitioner and his four companions were taken to Imambara Asfia on arrival at Lucknow. They discovered that there was a dispute between the Shias and Sunnis about the recitation of *tabarra*. He further said that he was required to recite *tabarra* which he declined to do. There was an altercation between him and a few Shias which was followed by exchange of blows. He left the Imambara and came to the Ahrar office at Patanala where he told his story and was advised to file a complaint which he did.

The number of those who obtained their release by tendering apologies after conviction shows that disillusionment takes place when the prisoners from far off places ascertain the real nature of the so called Mahaz-i-Husaini. Out of a total of 10,422 convicted 1,728 tendered apologies and thereby obtained their release from jail. These are official figures up to June 19. Illiterate people from the interior of the Punjab do not understand the language of this part of the country and batches of them arrive under the leadership of someone who had recruited them to fight the supposed battle of Husain against a Non-Muslim Government which is supposed to have launched a crusade against Ali and Husain whose names it is said to have tabooed in Lucknow. On alighting from the train they

are marched straight into the Imambara Asafi and in the afternoon the Jatha comes out *en masse* and offers itself to be arrested at its gate. Those in front pronounce *tabarra* and the entire crowd joins in the shout. A number of them including Sunnis subsequently discovered that the shout which they joined was not in honour of Ali and Husain as they had understood it to be but was the pronouncement of imprecations on the first three Caliphs. At the trial which takes place in jail the magistrate employs an interpreter and the leading accused answer 'yes' to the question whether they had uttered '*tabarra*'. If the statements of the Sunni prisoners be accepted as true it is clear that the implication of *tabarra* is not correctly understood by a large majority of those who are sent from the Punjab where *tabarra* is not common among the Shias. Why the Sunnis from the rural areas in the Punjab should come to Lucknow to court arrest can be explained only on the hypothesis of fraud or bribe, either of which does not enhance the reputation of those who are responsible for the organisation. If fraud or corruption is the explanation in the case of Sunni prisoners the inference is irresistible that similar methods of inducement were employed in the case also of some, at any rate, of the Shias from the Punjab. It is significant that the quota of Lucknow itself is small as compared to the Punjab contribution. Figures will be interesting if the numbers of prisoners from the entire U. P. and the Punjab are collected. That the movement is well financed admits of no doubt. It is an open secret that enormous sums of money have been donated by wealthy Shia gentlemen who believe that the prestige of their sect is at stake and it is obvious that no movement carried on for several months on a large scale could be sustained without entailing an expenditure of lakhs of rupees.

How the movement manifests itself locally is not less remarkable. The irony of the situation is that in practice *tabarra* is indulged in under police protection. It has been a matter of daily occurrence for several months in Lucknow that batches of Shias determined to pronounce *tabarra* (that is,

invoking the curse of God on each of the first three Khalifas by name) come out of the Imambara Asfia and are allowed to proceed a short distance outside the gate and then arrested for breach of orders under section 144 Cr. P. C. prohibiting public pronouncement of *tabarra*. Sometimes this demonstration is accompanied by the effigy of the second Caliph being subjected to all sorts of outrages and finally burnt on the spot. Care is taken by the police during all this time not to allow any Sunni to come within earshot of the *tabarra* observance. Those arrested are safely deposited in lorries and taken to jail under police escort. The prisoners shout *tabarra* on the whole route which lies between the Imam Bara and the jail through populated areas. When the *tabarra* prisoners are transferred from the Lucknow Jail to jails in other districts, where accommodation is provided for them, they have to wait for sometime on the railway platform for the train and avail themselves of the opportunity thus afforded to them of pronouncing *tabarra* in chorus at the sight of any one suspected to be a Sunni. For several weeks after the movement began *tabarra* used to be pronounced from the tops of many Shia houses through gramophone loud speakers and in other ways for the delectation of the occupants of Sunni houses in the neighbourhood. This manifestation of *tabarra* used to take place after the curfew order was in force and the Sunnis were not allowed to come out of their houses, so that the safety of those who indulged in it was ensured by the police watch and ward. *Tabarra* used to be inscribed on the walls and doors visible from public thorough-fares and on those of Sunni houses.

The Sunnis have endured these atrocities all this time and have not succumbed to the coercion which was expected by the sponsors of the movement to be successful. The demand of the Shias is that they should be allowed to utter *tabarra* if the Sunnis are allowed to utter praises of the Caliphs, the two standing on the same footing. They demand further that the communique of 31st March, 1939, should be withdrawn by the Government before *tabarra* movement is called off so that the



ban on Madhe-Sahaba previously existing be revived. The Sunnis, on the other hand, maintain that there is no analogy between the two, that while *tabarra* is an offence the praise of the Caliphs is not.

At one stage of the controversy Maulana Abul Kalam Azad, a member of the Congress High Command, was approached by the Shias to intervene and advise the U. P. Government to withdraw or modify the communique already mentioned. He agreed to arbitrate on the condition that the *tabarra* movement was called off before he convened a meeting of a few leading Shias and Sunnis. The former did not accept this condition and continued the *tabarra* agitation. Suggestions of amicable settlement have been made from time to time but did not lead to any result because of the insistence on the part of the Shias that the Sunnis should declare before hand the extent to which they would forego their right of publicly praising the Caliphs. The Sunni case on this point is that *tabarra* is an offence and that no concessions can be made in return for its abandonment, but that if it is given up and a calmer atmosphere is ensured the whole situation would be considered by them and some decision regarding the manner in which they should hold celebrations in honour of the Caliphs would be arrived at, with the approval of the Sunni masses who cannot properly be approached to give up any part of what they have been repeatedly assured is their right, while their feelings remain excited by the continuance of *tabarra*.

In refusing to compromise on the *tabarra* issue the Sunnis are not guided by any narrow sectarian spirit but by the feeling that a very important principle is involved and they cannot reconcile themselves to the *Tabarra* and Madhe-Sahaba being placed on the same footing. If praise and revilement of the Caliphs when uttered by word of mouth are to stand on the same footing, it may also be apprehended that a similar *tabarra* will be only a logical extension.

